

20. (Twice amended)

A formed window corner section as defined in claim 19, wherein said male splines are each provided with predetermined irregular cross-section which match openings at the ends of lineal rails having essentially complementary internal cross-section to receive said male splines of said formed corners and form a rigid water-tight joint.

Remarks

Before addressing directly the matters raised in the first Office Action, counsel wishes to address certain issues that appear to have arisen in connection with this application.

1. This is a National Stage application based on the National filing from International Application Ser. No. PCT/US02/23360 filed 23 July 2002, as stated in the forwarding letter. A courtesy copy of the published International Application was furnished along with the original papers on 22 December 2004. It is Counsel's understanding that a copy of that publication, along with the International Search Report, should have been furnished to the Examiner at the time of this National Filing, possibly before. In case that Search Report was NOT furnished for this file, applicant is including a copy with this response.

As a matter of clarification, a paper entitled Response to Request for Corrected Filing Receipt was mailed to Counsel on 06/07/2004; the last 'box' on page 1 is checked; this does not seem to be at all relevant to this situation.

Thus, in response to the Office Action dated 04/27/2006, following is an item-by-item reply to the several sections of the Action (as noted below in *Italics*).

Election/Restrictions

The Requirement for Restriction, finding that there are three distinct inventions under 35 U.S.C. 121, appears to be without basis, in view of the language of 37 C.F.R § 1.499 . It is submitted that

a) the Examiner has not made a finding that this national stage application lacks unity of invention under §1.475, and

b) the claims in this national application fit the definition regarding Unity of Invention as set forth in 37 C.F.R. §1.475 (b) (1).

Counsel agrees that he discussed the question of restriction with the Examiner under 35 U.S.C. 121 on April 25, 2006, and made a verbal election of Group I, claims 1-13, but no mention was made (or discussion occurred) at that time of the fact that this application is based on a request for National Filing of U.S. patent application based on International Application. Counsel has researched that point, and understands that National Applications are to be handled (or proceed) under 35 U.S.C. § 371--376 and under Rules 37 C.F.R. § 1.491--1,499 (and 1,475--1.476 where noted), and **NOT** under the sections of 37 C.F.R as applicable to ordinary non-Provisional patent applications.

Therefore, the outstanding Requirement for Restriction should be withdrawn, as not based upon the pertinent Rules. It is also noted that no objection regarding Unity of Invention was received during the preliminary proceedings in the International Application; see INTERNATIONAL PRELIMINARY EXAMINATION REPORT [part of NOTIFICATION OF TRANSMITTAL ETC.] dated 21 May 2004; Section 3., Item IV, box NOT checked. Further, please see the complete commentary on ALL claims 1--20 in the International application's PRELIMINARY EXAMINATION REPORT, Section V.

Information Disclosure Statement

The original application was filed as a U.S. Provisional Application on 23 July 2001. The International application was filed (about one year later) in the U.S. Receiving Office on 23 July 2002. This National Application was filed 22 January 2004. 37 CFR § 1.98(b) (regarding Information Disclosure Statements) has been amended numerous times since then. This first Office Action was mailed 27 April 2006, about two years & three months later. What version of § 1.98(b) applies; Counsel is unsure of the answer.?

More important, the International PCT Application was published 6 February 2003, and the 'now improper' citation of certain US Patents [3,784,043, 4,296,587, 5,473,853, 5,809,901, 5,921,037, and 5,921,056} has been there, in the public domain as well as before the US Patent Office, for over three years. It is Counsel's understanding that once the disclosure in an International Application is

published and "fixed", the U.S Office is required to accept it as a part of the application, and has no right or authority to demand alteration of it.

This same point is addressed below, under the demand for correction of the Drawings.

Drawings

The drawings are objected to "because the applicant has not used the proper cross-sectional Shading when showing the invention in cross section. For example, see figure #3A where the sash profile 40R and 40S is not shown in the proper cross sectional shading. See MPEP 608.02."

[Please note, the correct citation for the "rules" as regards 'sectional' views is **37 C.F.R. § 1.84 (h) (2) (3)**. It is on the third page of §1.84. There are NO MPEP pages on the USPTO web site copy of 37 C.F.R. This required considerable time just to locate.]

Furthermore, exactly which of the drawing Figures are considered improper? Is the objection directed only to Figs. 3A, 4A, & 4B? Are the "heavy" lines in Figs. 3A, 4A, 4B, 5A, 6A, 6B, and 8A also objectionable? The admonition that "The objection to the drawings will not be held in abeyance" is noted, but what is supposed to be done when the scope of the drawing objections is not understood, or when the objection is not proper? Counsel believes he cannot, and also should not have to immediately 'correct' the drawings in this situation.

More important, Counsel repeats his understanding that once the disclosure in an International Application is published and "fixed", the U.S Office is required to accept it as a part of the application, and has no right to require alteration of it. Never-the-less, if the Examiner believes that the cross-hatching is essential, upon request applicants will consider a voluntary addition of the cross-hatching in Figs. 3A, 4A, & 4B

Thus, it is respectfully requested that the objections to the Drawings should be withdrawn (especially at this late stage) in accordance with the practice regarding National Applications based on a published International Application (citations above).

Specification

This objection is actually direct to the Abstract; [Again, notice the citation MPEP § 608.01(b)]. During the preliminary International examination, an objection to the 'then' Abstract was made and the Examiner proposed a new shortened one. This was accompanied by a statement that if the applicant did not disagree with it in the record, such shortened Abstract would be adopted; applicant did not object. Unfortunately this happened some time after publication, so the original Abstract remained in the initially Published Application and was carried through into a later publication (A3) of the National application. Counsel should have noticed this and included the shorter Abstract within the Preliminary Amendment, but failed to do so, for which he apologizes.

This is being accomplished in the present amendment. The revised and shortened Abstract, submitted herewith, is essentially as proposed by the Examiner in the International proceedings and later published in WO 03/010406 A3. The Abstract was modified slightly from what was published so as to clarify description of the two different versions of 'corner section' e.g. as in Figs. 3, 4, 5 & 6.

Claim Rejections - 35 USC § 112

It is not stated whether the claims presented by Preliminary Amendment are the claims that have been rejected. However, it is assumed that the Preliminary amendment has been entered and the claims being examined here are those presented as amended in that Preliminary amendment.

The claims have been rejected on Guarnacci US '486 in view of published UK Application 2 150 182. The Examiner states that Guanacci provides "at least four integrally formed frame corners" but it appears that is not the case. The corners 1b, 2b, 5b and 6b are described (Column 3, lines 35--60) as "These two metal square elements 22 and 24 are connected with each other both by a metal built-in element 26 and by a moulded synthetic resin body 28 shaped to re-assume the contour of the contiguous sections". Applicants understand this is a pair of curved metal (probably aluminum) corner rails 22-24 that are joined by an exteriorly applied molded corner piece 28. The ext of Guarnacci continues (line 52) "The shaped body 28 which is moulded (sic) by injection on the reinforcement unit shown alone in Fig.4." Also, it appears that the 'rails' 32 are provided with "a metal reinforcement 34"; see Fig. 5. and column 3, lines 64, 65..

Thus, what is shown and described in Guarnacci are fabricated corner pieces and rails embodying a synthetic material molded around the metal pieces 22, 24, & 34. This theme is carried through the entire disclosure of Guarnacci. Those are not integrally formed or molded corner pieces such as provided by applicant. Among other problems, the metal-in plastic type of construction can introduce problems due to incompatible thermal expansion/contraction between the metal and plastic materials, and the manufacturing processes are obviously more complicated and costly.

The UK published '182 application is relied upon merely to teach the use of a sealant, but this adds nothing to the basic lack of anticipation and/or obviousness from the primary reference Guarnacci '486 and the UK published application '182.

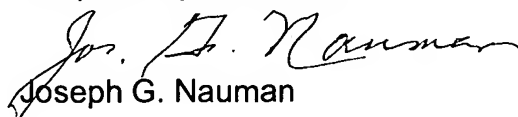
Claim 5 (herein) has been amended to recite "welded together joint sections." This describes the structure of the product, the joint sections; it is a physical limitation and not a "product by process" recitation. Claim 5 should be allowed.

Claim 11 (herein) describes a specific type of lineal pieces and of formed corners, and specifies that both parts can and are made from compatible synthetic materials. Again, the limitations apply to the structures of the lineal pieces and corners, and the fact that they can both be formed from compatible chosen synthetic materials.

Applicants' claim 13 includes all the limitations of claim 5 (from which it depends) and of claim 1 (from which claim 5 depends). The Examiner's reference to an alleged sloped lower surface 53 (where does the text say it is sloped ?; column 3, line 22 in Kenkel states "distal flat ends or faces") from Kenkel is suggested only by applicants' disclosure.

In view of the foregoing, it is submitted that the amended claims now presented are clearly allowable.

Respectfully submitted,


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